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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,538	09/27/2001	Takayo Katsuki	36856.550	8080

7590 12/13/2002
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EXAMINER

EASTHOM, KARL D

ART UNIT PAPER NUMBER

2832

DATE MAILED: 12/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/965,538

Applicant(s)

Katsuki et al.

Examiner

Karl Easthom

Art Unit

2832



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 25, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Oct 25, 2002 is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Oct 25, 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of:

1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Katsuki et al. '779. Katsuki et al. discloses the claimed invention at Fig. 7, or 3 where 30a 121a, or the part of 111a are vertical leg portion since 30a has a vertical part where the button part meets extends down to meet the horizontal part 30, and 121a and 111 have vertically extending parts from the electrodes 111a or 101. The portion of upper terminal 5, 114 or 124 is extended downward - either the parts on the outside of the case, or the part 54 touching the thermistor in Fig. 7.. (Either of these is a vertical leg portion meeting claim 9, with the bent part 51 and the part 54 meets claim 9). Also the portion of 4 outside or inside the case at Fig. 7 extends downward as seen. The horizontal connection portion of claim 7 is 41 since it is bent and connects to a substrate..

3. Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ikeda et al. Ikeda discloses the claimed invention at Fig. 7F where 172 is a vertical leg portion of the lower terminal is downwardly extending. The lower end portion is the right-hand end portion having vector components extending in the radial and vertical directions. The vertical leg portion of upper terminal 17 is shown bent downward, meeting claims 9-10. (The vertical leg portion and

downwardly extending portions are interpreted as the same element, similar to applicant's Fig. 3).

In claim 6, stainless steel is disclosed at col. 10, lines 1-5.

4. Claims 1-4, 7-8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Honkomp et al. Honkomp discloses the claimed invention at Fig. 2 with the solder described at col. 4, lines 55-60 the electrodes, and terminals 17 (junction and short vertical-leg portion), including terminal part 12 connected thereto (lower-end portion extending in a radial direction) the claimed vertical leg portion. The whole device of Fig. 2 can be tilted such as when being shipped, so that one side of 18 is the upper, and the other side of thermistor 18 is the lower, or the terminals 16 can be mounted horizontal to that as the device is depicted.

5. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Takakura et al. (JP 5-299206). Takakura discloses the claimed invention at Fig. 1 where the vertical leg portion is shown as the bent portion of lower terminal 15 that touches 13c. 14 is the upper terminal. In claim 2, "in the vicinity" means close to the center. The leg portion is "substantially" perpendicular where the term is one of degree and the leg appears to be less than about 45 degrees - one-half between perpendicular and parallel.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takakura et al., Katsuki et al. '779, or Ikeda et al., in view of Nagao et al. The claimed invention is as disclosed above except for the electrode material. Nagao discloses such a material at the abstract as conventional and for improving flash resistance, see col. 6 and table 5. It would have been obvious to employ the well known material in the manner of Nagao to improve the flash resistance.

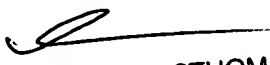
8. Applicant's arguments filed 10/25/02 have been fully considered but they are not persuasive. Applicant argues that Takakura does not have the vertical-leg portion that is substantially perpendicular. This is not correct because the term is one of degree and the leg appears to be less than about 45 degrees - one-half between perpendicular and parallel. Similar remarks apply to Katsuki since the part 421 is bent "substantially" perpendicular where it is bent more than 45 degrees at Figs. 7 or 8, similar to the part 121a at Fig. 3. Applicant argues Honkomp does not disclose the radial portion, this is addressed above, where the part 12 is that portion. As to the lower-end portion of Ikeda, see the remarks above, where the right-hand side of part 172 meets the element.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Easthom whose telephone number is (703)308-3306. The examiner can normally be reached on M-Th. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad, can be reached on (703)308-7619. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7722. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


KARL D. EASTHOM
PRIMARY EXAMINER